

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF THE STATE OF SOUTH CAROLINA**

IN RE:

Application of Lynches River Communications, Inc.
for Designation as an Eligible Telecommunications
Carrier in the State of South Carolina

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Docket No. 2021- -C

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FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER
IN THE STATE OF SOUTH CAROLINA**

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I. INTRODUCTION

Lynch River Communications, Inc. (“Lynch River” or the “Company”), by its undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”)¹ and Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (“FCC”),² and the rules and regulations of the Public Service Commission of South Carolina (“Commission”),³ hereby submits this Application for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of South Carolina.

Lynch River seeks ETC designation solely to provide Lifeline service to qualifying South Carolina consumers; it will not seek access to funds from the federal Universal Service Fund (“USF”) for the purpose of participating in the Link-Up program or providing service to high cost areas.⁴ As demonstrated herein, and as certified in Exhibit 1, Lynch River meets all the statutory

¹ 47 U.S.C. § 214(e)(2).

² 47 C.F.R. §§ 54.101-54.207.

³ See S.C. Code Regulation §103-690.

⁴ Given that Lynch River only seeks support from the low-income program and does not seek any high-cost support, ETC certification requirements for the high-cost program are not applicable to the Company.

and regulatory requirements for designation as an ETC in the State of South Carolina. Rapid grant of Lynch River's request, moreover, would advance the public interest because it would enable the Company to commence much needed Lifeline service to low-income South Carolina residents as soon as possible. Accordingly, the Company respectfully requests that the Commission expeditiously approve this Application for ETC designation.

All correspondence, communications, pleadings, notices, orders and decisions relating to this

Application should be addressed to:

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II. UNIVERSAL SERVICE OFFERING

A. Company Overview

Lynch River is a South Carolina corporation organized in the State of South Carolina on September 30, 2019 and is currently in good standing. Its principal office is located at 707 South Arant Street, Pageland, South Carolina 29728. Lynch River is a provider of high-speed fiber internet and phone service through a service the Company named *RiverNet Connect*. Lynch River is a subsidiary of Lynch River Electric Cooperative ("LREC"), a member-owned

cooperative also headquartered in Pageland, South Carolina. Founded in 1939, Lynches River Electric Cooperative provides service to more than 21,000 residential, commercial, and industrial consumers in Chesterfield, Kershaw, and Lancaster counties. LREC has been committed to delivering reliable electric energy and related services at a competitive price for over eighty years.

B. Proposed Lifeline Offering

Lynches River will provide high speed fiber optic internet services to the home as well as VoIP voice phone service to consumers in Chesterfield, Kershaw, and Lancaster counties. The Company's Lifeline service offering will offer subsidized high-speed internet and voice services that includes unlimited local and long-distance calling.

Lynches River will provide all services and functionalities supported by the universal service program, as detailed in Section 54.101(a) of the FCC's Rules (47 C.F.R. § 54.101(a)) throughout South Carolina.

III. THE COMMISSION HAS JURISDICTION AND AUTHORITY TO DESIGNATE ELIGIBLE TELECOMMUNICATIONS CARRIERS

Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under Section 214(e)(2) shall be eligible to receive specific federal universal service support."⁵ Section 214(e)(2) of the Act states that state commissions "shall designate" common carrier that meet the statutory requirements as ETCs. The FCC has further ruled that Section 214(e)(2) of the Act "provides state commission with the primary responsibility for designating ETCs."⁶ Therefore, the Commission has the authority to designate Lynches River as an ETC.

⁵ 47 U.S.C. § 254(e)

⁶ See *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858-59, ¶ 145 (1997) ("USF Order").

Section 103-690.A.3 of the S.C. Code Regulations references "the commission's authority and jurisdiction to impose such regulations on ETCs...as are in the public interest[,]"⁷ and Section 103-690.C establishes the requirements that an applicant must meet in order to be designated an ETC.⁸ Therefore, the Commission has the authority and the primary responsibility under federal law to designate Lynches River as an ETC for federal universal service support purposes.

IV. LYNCHES RIVER SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC

As demonstrated in the following sections, Lynches River satisfies each of the statutory and regulatory requirements for designation as an ETC, as set forth in the Act, in the FCC's rules, and in the rules of the Commission.

A. Lynches River Will Provide Service as a Common Carrier

To be designated as an ETC, an applicant must be a common carrier.⁹ For the customers and locations where Lynches River is seeking to provide service, Lynches River will provide its services on a common carrier basis. As certified by an officer of the Company, Lynches River is a common carrier for purposes of Section 214(e) of the Act.

B. Lynches River Will Provide All Required Services and Functionalities

To be designated as an ETC, an applicant must offer throughout its proposed service areas the services set forth in Section 54.101(a) of the FCC's rules¹⁰ either by using its own facilities or a combination of its own facilities and the resale of another carrier's services. Attached as Exhibit

⁷ S. C. Code R.103-690.A.(3). The Commission also indicates that its regulations establishing requirements for the designation of ETCs are for "the purpose of receiving federal universal service support, not state universal service support." *Id.*, R.103-690.A.1.

⁸ *Id.*, R.103-690.C.

⁹ 47 U.S.C. § 214(e)(1) (providing that a "common carrier" must be designated as an ETC to receive universal service support). The Act defines a "common carrier" as "any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy..." 47 U.S.C. § 153(11).

¹⁰ 47 CFR § 54.101(a)

1 is an affidavit stating that Lynches River commits to offer all of the services designated for support by the Federal Communications Commission.¹¹ As discussed in the following sections, the Company will offer, upon designation as an ETC, all of the supported services throughout the areas in which the Company is requesting designation as an ETC.

1. Voice Grade Access to the Public Switched Telephone Network

Section 54.101(b) of the FCC's rules provides that an ETC must provide "voice telephony service" in order to receive federal universal support.¹² Section 54.101(a)(1) provides that:

Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.¹³

Lynches River will meet this requirement through the provision of IP-based voice service that is interconnected to the PSTN. The Company will be legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting universal service-related requirements.

Lynches River will offer stand-alone voice telephony service throughout its

¹¹ See *Designation of Fort Mojave Telecommunications, Inc., et al., as Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, AAD/USB File No. 98-28, Memorandum Opinion and Order, 13 FCC Red 4547, 4552 (r 11) (1998) ("*Fort Mojave*"). In *Fort Mojave*, the FCC indicated that it will designate carriers as ETCs, pursuant to Section 214(e)(6) of the Act, upon finding that they "offer or will be able to offer" the supported services throughout the service area.

¹² 47 CFR § 54.101(b).

¹³ *Id.*, § 54.101(a)(1).

proposed ETC Designation Area¹⁴ and will offer such service at rates that are reasonably comparable to urban rates. This service will include minutes of use for local service provided at no charge to end users and access to emergency service via E-911, wherever available from local government or public safety organizations. The Company also commits to provide toll limitation services to qualifying low-income consumers as provided in Sections 54.400-54.423 of the FCC's rules.¹⁵

2. Broadband Internet Access Services.

Lynches River broadband Internet offering will provide the capability to transmit data to, and receive data from, all or substantially all Internet endpoints, including any capabilities that are incidental to, and enable the operation of, communications services.¹⁶ The Company will offer Internet service at actual speeds of at least 300 Mbps Upload and Download and include Unlimited Data and offer such service at rates that are reasonably comparable to urban rates.

3. Lifeline Service.

As required by Section 54.405(a) of the FCC's rules,¹⁷ Lynches River will offer subsidized Lifeline voice and broadband services, including a standalone voice service offering, to qualifying low-income consumers in accordance with the FCC's rules within its proposed ETC Designation Area.¹⁸

¹⁴ See Exhibit 3 for a map of coverage area.

¹⁵ *Id.*, §§ 54.400-54.423.

¹⁶ See *Id.*, §54.101(a)(2)

¹⁷ 47 CFR § 54.405(a)

¹⁸ See *Id.*, §§ 54.400-54.423.

C. Lynches River Will Advertise the Availability of Supported Services

Lynches River will advertise the availability and rates for the services described above using media of general distribution as required by S.C. Code Reg. § 103-690.C(a)(1)(C)(7) and Section 54.201(d)(2) of the FCC's regulations.¹⁹

The Company will advertise its services in a manner reasonably designed to reach those likely to qualify for Lifeline service, using many mediums for outreach including print advertisements, direct marketing, and over the Internet.

Lynches River seeks a waiver of the Commission's requirement to "submit a two-year plan that describes with specificity proposed improvements or upgrades to the applicant's network..."²⁰

D. Lynches River Requests Designation Throughout Its Service Area in South Carolina

Lynches River is not a rural telephone company as defined in Section 153(37) of the Act (47 U.S.C. § 153(37)). Accordingly, Lynches River is required to describe the geographic area(s) within which it requests designation as an ETC. Lynches River requests designation as an ETC for its entire service area in South Carolina.²¹ Lynches River understands that its service area may overlap with rural carriers in South Carolina, but maintains that the public interest factors described below justify its designation in these carriers' service areas, especially because it seeks ETC designation solely to utilize USF funding to provide Lifeline service to qualified low-income consumers. It does not seek and will not accept Link-Up or high-cost support.

E. Network Improvement Plan

¹⁹ See 47 C.F.R. § 54.201.

²⁰ S.C. Code R.103-690.C(a)(1)(B)

²¹ A map detailing the Company's service area in which the Company requests ETC designation is attached hereto as Exhibit 3. Since the Company seeks ETC designation solely for low-income support, a "cream skimming" analysis is unnecessary and Lynches River requests that the Commission waive that portion of Commission Regulation 103-690 requiring a "cream-skimming" analysis.

As set forth in the *Lifeline and Link Up Reform Order*, a common carrier seeking designation as a Lifeline-only ETC is not required to submit a five-year network improvement plan as part of its application for designation as an ETC.²²

F. Ability to Remain Functional in Emergency Situations

Lynches River commits that its fiber optic network will have the ability to remain functional in emergency situations, will have reasonable amount of backup power to ensure functionality without an external power source, will be able to reroute traffic around damaged facilities, and will be capable of managing traffic spikes resulting from emergency situations.²³

G. Commitment to Consumer Protection and Service Quality

Under FCC guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards.²⁴ The Company commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards.²⁵

H. Local Usage Plan

Pursuant to Commission requirements, Lynches River commits to offer a local usage plan that will be comparable to the plan offered by incumbent local exchange carrier(s) (“LEC”) in its proposed ETC Designation Area.

I. Equal Access Requirement

²² See *Lifeline and Link Up Reform Order* at ¶ 386.

²³ S.C. Code R.103-690.C.(a)(1)(A)(1), R.103-690.C.(a)(2). See 47 CFR § 54.202(a)(2) (providing that a common carrier seeking an ETC designation by the FCC must “[d]emonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations”).

²⁴ See 47 C.F.R. § 54.202(a)(3).

²⁵ 47 C.F.R. § 54.422(b)(3)

The FCC's Rules no longer require an applicant for ETC status to acknowledge that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.²⁶

J. Lynches River Will Comply With Regulations Imposed By The Commission

By this Application, Lynches River hereby asserts its willingness and ability to comply with the rules and regulations that the Commission may lawfully impose upon the Company's provision of service contemplated by this Application. Lynches River certifies that all federal USF funding received will be used for Lifeline support and will be flowed through to the direct benefit of eligible low-income consumers. On behalf of its South Carolina customers, Lynches River will contribute to the federal and state USF and will remit all applicable surcharges and fees in South Carolina, including the E911 surcharge. Lynches River will comply with the Commission's annual reporting requirements set forth in S.C. Code Regulation 103-690.1. Upon Commission request, Lynches River is prepared to answer questions or present additional testimony or other evidence about its services within the state.

V. DESIGNATION OF LYNCHES RIVER AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is "to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies" to all citizens, regardless of geographic location or income.²⁷ There is no question that designation of Lynches River as an ETC in South Carolina will further the public interest by providing South Carolina consumers, especially low-income consumers, with lower internet prices and higher quality

²⁶ *See id.*

²⁷ *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56.

services.

The instant request for ETC designation must be examined in light of the Act’s goal of providing low-income consumers with access to telecommunications services. The primary purpose of universal service is to ensure that consumers—particularly low-income consumers—receive affordable and comparable telecommunications services. Given this context, designating Lynches River as an ETC would significantly benefit low-income consumers eligible for Lifeline service in the State of South Carolina—the intended beneficiaries of universal service.

A. Advantages of Lynches River’s Service Offering

Lynches River service offerings will provide unique advantages to consumers in its proposed ETC Designation Area. The Company’s deployment of high-speed fiber optic internet access brings a new standard of rural broadband services to South Carolina. With fiber optic, Lynches River can reach Gigabit (1000Mbps) speeds.

B. The Benefits of Competitive Choice

The benefits to consumers of being able to choose from among a variety of telecommunications service providers have been acknowledged by the FCC for more than three decades.²⁸ Designation of Lynches River as an ETC will promote competition and innovation, and spur other carriers to target low-income consumers with service offerings tailored to their needs and to improve their existing networks to remain competitive, resulting in improved services to consumers. Designation of Lynches River as an ETC will help assure that quality services are available at “just, reasonable, and affordable rates” as envisioned in the Act.²⁹ Introducing Lynches River into the market as a fiber based internet provider will afford low income South Carolina

²⁸ See, e.g., *Specialized Common Carrier Services*, 29 FCC Rcd 870 (1971).

²⁹ See 47 U.S.C. § 254(b)(1).

residents a wider choice of providers and available services while enhancing the competitive marketplace as ETCs compete for a finite number of Lifeline-eligible customers. Increasing the competitive marketplace of providers has the potential to effectively increase the penetration rate and reduce the number of individuals not connected to the PSTN.

VI. CONCLUSION

Based on the foregoing, designation of Lynches River as an ETC in the State of South Carolina accords with the requirements of Section 214(e)(2) of the Act and is in the public interest.

WHEREFORE, Lynches River respectfully requests that the Commission promptly designate Lynches River as an ETC in the State of South Carolina.

Respectfully submitted,

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*Attorneys for Lynches River Telecom
 Communications, LLC*

Columbia, South Carolina
 September 21, 2021

EXHIBIT 1

Affidavit of Dustin Catoe

STATE OF SOUTH CAROLINA)
)
COUNTY OF Chesterfield)

AFFIDAVIT OF DUSTIN CATOE

Personally appeared before me Dustin Catoe who, being first duly sworn, deposes and states the following:

My name is Dustin Catoe. I am Chief Financial Officer of Lynchess River Communications, Inc. ("Lynchess River" or "Applicant"). My business address is 707 S Arant Street, Pageland SC 29728. I am an officer of the Company and am authorized to make this Affidavit on its behalf, and it is based on my personal knowledge. This affidavit is given in support of the application to designate Lynchess River as an eligible telecommunications carrier.

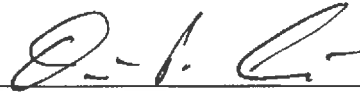
On behalf of Lynches River, I certify and assert the following:

1. Lynches River acknowledges that the Federal Communications Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.
2. Lynches River does offer or will offer the services that are supported by the federal universal service support mechanisms by using its own facilities or a combination of its own facilities and resale of another carrier's services.
3. Lynches River does or will advertise in a media of general distribution the availability of such services, including lifeline services and the applicable charges.
4. Lynches River is a common carrier under Section 214 (e)(1)-1(2) of the Communications Act of 1934 ("Act").
5. Lynches River commits to provide the services and functionalities required for designation as an Eligible Telecommunications Carrier ("ETC") in its proposed ETC Designation Area.
6. Lynches River certifies that it will meet all of the FCC's requirements for designation as an ETC under Section 214 (e)(1) of the Act, and all of the requirements of the South Carolina Public Service Commission for designation as an ETC.

7. Lynches River is eligible to be designated as an ETC within the meaning of Section 214(e) of the Act.

Dated this 22 day of September, 2021

Lynches River Communications, Inc.



By: Dustin Catoe
Its: Chief Financial Officer

SUBSCRIBED and sworn to before me

this 22 day of September, 2021

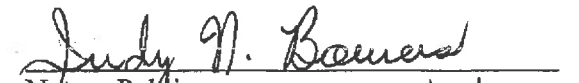

Notary Public
My Commission Expires: 3/5/2031

EXHIBIT 2

Verification of Dustin Catoe

VERIFICATION

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Chesterfield)

I, Dustin Catoe, Chief Financial Officer of Lynches River Communications, Inc. ("Lynches River") first being duly sworn upon oath, depose and say that I am an officer authorized to represent Lynches River, the Applicant in this application; that I have read the Application and know the contents; that the contents are true and correct to the best of my knowledge and belief.

Lynches River Communications, Inc.

By: 

Dustin Catoe
 Chief Financial Officer

Subscribed and sworn to before me this

22 day of September, 2021

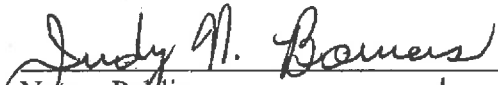

 Notary Public
 My Commission Expires: 3/5/2031

EXHIBIT 3

Map of ETC Coverage Area

